**Lynch, Cynthia**

**From:** Morris, Craig
**Sent:** Wednesday, October 20, 2010 1:00 PM
**To:** Beresford, Lynne; Cohn, Debbie; Marsh, Sharon; Lynch, Cynthia
**Subject:** FW: Small Business Study

Here is our first response.

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**From:** Dan Clutter [mailto:(b)(6)]
**Sent:** Wednesday, October 20, 2010 11:52 AM
**To:** TMFeedback
**Subject:** Small Business Study

1. We own some trademarks (3-4) and have applied for a few more (4-5). We are a biotechnology company with <20 people who are funded by angel investors and grants.
2. We have been targeted by a larger company for the use of APiX while there trademark is for Apex. The USPTO doesn't acknowledge the value/utility of capital letters versus lower case and phonics ("i" versus "e") which opens several doors to unnecessary litigation.
3. We have received a cease and desist letter but are inclined to fight it because our it encompasses our whole product brand where for the larger company it is a very minor piece of theirs. The only winners will be the lawyers.
4. We will see how it turns out but it will have a major impact on our cash situation and maybe even the existence of our company.
5. See #3 & #4
6. Yes, trademark bullies are a problem and it is getting worse. With the class action suits being brought against people for using expired trademarks/patents, it is getting worse.
7. Yes, lawyers are making more profit than the customers they are protecting. We need the USPTO to have the ability, power and clarity to protect the consumer (the businesses applying for trademarks in this case) by clearly defining what is allowable and protected versus what is not.
8. See #7
9. If the USPTO sets the rules and gets involved in the enforcement, the courts will follow the precedents laid down. Any legal appeals should start with the USPTO telling the courts their opinion.
10. The Bar Association should address (censure?) lawyers who are acting as "ambulance chasers" regarding trademark and patent lawsuits.
11. Congress needs to recognize the problem and work with the organizations listed above to reduce what amounts to frivolous lawsuits.

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